

**UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF PENNSYLVANIA**

NICOLE ROGERS

Plaintiff

V.

VERDE ENERGY USA, INC.,

Defendant

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

Case No.:

COMPLAINT AND DEMAND FOR JURY TRIAL

COMPLAINT

NICOLE ROGERS (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against VERDE ENERGY USA, INC. (“Defendant”):

INTRODUCTION

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant conducts business in the Commonwealth of Pennsylvania and as such, personal jurisdiction is established.

1 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

2 **PARTIES**

3 5. Plaintiff is a natural person residing Farrell, Pennsylvania 16121.

4 6. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

5 7. Defendant is a corporation that has its office located in Norwalk,
6
7 Connecticut 06851.

8 8. Defendant is a “person” as that term is defined by 47 U.S.C.
9 §153(39).

10 9. Defendant acted through its agents, employees, officers, members,
11
12 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
13 representatives, and insurers.

14 **FACTUAL ALLEGATIONS**

15
16 10. Plaintiff has a cellular telephone number that she has had for more
17 than one year.

18 11. Plaintiff has only used this number as a cellular telephone number.

19 12. The phone number has been assigned to a cellular telephone service
20
21 for which Plaintiff incurs a charge for incoming calls.

22 13. Plaintiff never provided permission to Defendant to call her cellular
23 telephone number or to contact her regarding any goods or services offered by
24 Defendant.
25

1 14. Beginning in November 2014, and continuing through April 2015,
2 Defendant called Plaintiff on her cellular telephone.

3 15. When contacting Plaintiff on her cellular telephone, Defendant used
4 an automatic telephone dialing system and automatic and/or pre-recorded
5 messages.
6

7 16. Defendant's messages would state its name and that its call was "for
8 marketing purposes."

9 17. Defendant's telephone calls were not made for "emergency purposes."
10

11 18. For example, Defendant called Plaintiff on: November 20, 2014;
12 November 22, 2014; and April 15, 2015.

13 **DEFENDANT VIOLATED THE**
14 **TELEPHONE CONSUMER PROTECTION ACT**

15 19. Plaintiff incorporates the forgoing paragraphs as though the same were
16 set forth at length herein.

17 20. Defendant initiated multiple automated telephone calls to Plaintiff's
18 cellular telephone using a prerecorded voice.
19

20 21. Defendant initiated these automated calls to Plaintiff using an
21 automatic telephone dialing system.
22

23 22. Defendant's calls to Plaintiff were not made for emergency purposes.

24 23. Defendant's calls to Plaintiff, in and after November 2014, were not
25 made with Plaintiff's prior express consent.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, NICOLE ROGERS, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATED: 05-04-15

KIMMEL & SILVERMAN, P.C.

By: /s/ Craig Thor Kimmel

CRAIG THOR KIMMEL

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